

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

IN THE MATTER OF LAPSED)	
PERMIT NO. 63-31511 IN THE)	REINSTATEMENT ORDER
NAME OF M & J ENTERPRISES)	
_____)	

WHEREAS, the Department issued Permit No. 63-31511 in the name of M & J Enterprises ("permit holder") with the condition that proof of construction of works and application of water to beneficial use ("proof of beneficial use" or "proof") be submitted to the Department on or before August 1, 2003.

The Department notified the permit holder on May 31, 2003, that proof of beneficial use was due and instructed the permit holder of the steps to be taken to submit the proof of beneficial use or an extension of time request.

The Department received an extension request on July 8, 2003. The Department approved the request and extended the proof of beneficial use deadline to August 1, 2004.

The Department notified the permit holder on May 31, 2004, that proof of beneficial use was due and instructed the permit holder of the steps to be taken to submit the proof of beneficial use or an extension of time request.

On August 12, 2004, the Department sent the permit holder a lapse notice, since the Department had not received an acceptable proof or extension request.

On September 1, 2004, the permit holder submitted a Request for Extension of Time ("request") with the appropriate filing fee. However, at this time the file was inadvertently held for processing until July of 2005. During review of the request the department determined that a second extension was not appropriate because the water system had been completed and the water had been applied to a beneficial use at the time the request was filed. The extension was returned to the permit holder and proof of beneficial use was requested within 15-days to maintain the September 1, 2004 filing date established by the extension request.

Sections 42-218a and 42-218a(3), Idaho Code, provide that the Department may reinstate a permit upon a showing of reasonable cause by the permit holder within sixty days of the date of lapsing, and may reinstate a permit based on department error.


The permit holder provided a reasonable showing why the permit should be reinstated by filing an acceptable proof of beneficial use on August 11, 2005.

The Department's delay in processing of the permit holder's request for extension should have no effect upon the advancement of the priority date, and the permit should be reinstated to the date the permit holder filed the request for extension of time.

ORDER

IT IS, THEREFORE, HEREBY ORDERED, that Permit No. 63-31511 is **REINSTATED** with an advance in priority to **July 21, 2002**.

Dated this 31st day of August, 2005.



Gary Spackman